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Test and Training Range at property off Santa Rosa Island, Florida, in the northern Gulf of Mexico, under the activity identified in paragraph (a) of this section, is limited to the following species: Atlantic bottlenose dolphins (*Tursiops truncatus*).

(1) The latitude/longitude of corners of W–151 in the Eglin Gulf Test and Training Range are:

(i) 30.24006° North, −86.808838° West

(ii) 29.539011° North, −84.995536° West

(iii) 28.03949° North, −85.000147° West

(iv) 28.027598° North, −85.199395° West

(v) 28.505304° North, −86.799043° West

(2) The latitude/longitude of corners of W–151A in the Eglin Gulf Test and Training Range are:

(i) 30.24006° North, −86.808838° West

(ii) 30.07499° North, −85.999327° West

(iii) 29.179968° North, −85.996341° West

(iv) 29.384439° North, −86.802579° West

§ 217.81 Effective dates.

Regulations in this subpart are effective from April 23, 2012, through April 24, 2017.

§ 217.82 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter and § 217.87, the U.S. Department of the Air Force, Headquarters 96th Air Base Wing, Eglin Air Force Base (U.S. Air Force), its contractors, and clients, may incidentally, but not intentionally, take marine mammals by Level B harassment, within the area described in § 217.80, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental taking of marine mammals is authorized for the species listed in § 217.80(b) and is limited to Level B harassment.

(c) The incidental taking of an average of 10 individuals annually and 50 individuals during the 5-year rule, for Atlantic bottlenose dolphins.

(d) The U.S. Air Force shall suspend NEODS training operations until it obtains additional authorization for the take of marine mammals if:

(1) A marine mammal is injured, seriously injured, or killed during training operations;

(2) The injury, serious injury, or death could be associated with the activities; and

(3) After coordination and concurrence with NMFS, the U.S. Air Force determines that supplementary measures are unlikely to reduce the risk of injury, serious injury or death to a very low level, require the U.S. Air Force to suspend its activities until an authorization for such taking has been obtained.

§ 217.83 Prohibitions.

Notwithstanding takings contemplated in § 217.80 and authorized by a Letter of Authorization issued under §§ 216.106 of this chapter and 217.87, no person in connection with the activities described in § 217.80 may:

(a) Take any marine mammal not specified in § 217.80(b);

(b) Take any marine mammal specified in § 217.80(b) other than by incidental take as specified in § 217.82(a) through (d);

(c) Take a marine mammal specified in § 217.80(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 of this chapter and 217.87.

§ 217.84 Mitigation.

(a) The activity identified in § 217.80(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 217.80(a), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 of this chapter and 217.87 must be implemented. These mitigation measures include (but are not limited to):

(1) Underwater detonations using timed delay devices will only be conducted during daylight hours. The time of detonation shall be limited to an hour after sunrise and an hour before sunset.

(2) NEODS missions shall be postponed if:

(i) The Beaufort sea state is greater than scale number three. Such a delay would maximize detection of marine mammals.

(ii) Large concentrations of fish, jellyfish, and/or large *Sargassum* rafts are observed within the mitigation-monitoring zone. The delay would continue until the fish, jellyfish, and/or *Sargassum* rafts that cause the postponement are confirmed to be outside the mitigation-monitoring zone.

(3) Time delays longer than 10 minutes will not be used. Initiation of the timer device will not start until the mitigation-monitoring zone is clear of marine mammals for 30 minutes.

(4) A calculated mitigation-monitoring zone will be established around each underwater detonation location based on charge weight and length of time-delay used. When conducting surveys within the mitigation-monitoring zone radius (but always outside the detonation plume radius/human safety zone) and travel in a circular pattern around the detonation point, surveying the inner (toward the detonation site) and outer (away from the detonation site) areas. For a survey radius of 914.4 meters, the boat will be positioned at 457.2 meters from the detonation point. Similarly, for a survey radius of 1,280.2 meters, boats will be positioned at 640.1 meter distance.

(5) For a survey radius of 914.4 meters, two boats are required. For a radius of 1,280.2 meters, either three boats or two boats/one helicopter are required.

(6) When using two boats, each boat will be positioned on opposite sides of the detonation location, separated by 180 degrees. When using three boats, each boat will be separated by 120 degrees (equidistant from each other).

(7) Two observers in each boat will conduct continuous visual surveys of the mitigation-monitoring zone for the entire duration of the training event, including at least 30 minutes prior to detonation. Observers will search the mitigation-monitoring zone for the presence of marine mammals, and other marine species such as sea turtles, diving birds, large concentrations of fish or jellyfish, and large *Sargassum* mats. The presence of diving birds, fish, jellyfish, and *Sargassum* may indicate an increased likelihood of dolphin presence.

(8) To the extent practicable, boats will maintain 18.5 kilometer per hour search speed. This search speed is expected to ensure adequate coverage of the buffer zone. While weather conditions and sea state may require slower speeds in some instances, 18.5 kilometers per hour is considered a prudent, safe, and executable speed that will allow adequate surveillance. For a 914.4 meter survey zone, a boat traveling at 18.5 kilometers per hour and 457.2 meters from the detonation point would circle the point approximately 3.2 times during a 30 minute survey period. By using two boats, approximately 6.4 circles would be completed in total. Similarly, for a 1,280.2 meter radius, each boat would circle the detonation point approximately 2.3 times within 30 minutes, and use of three boats would result in 6.9 total circles.

(9) If available, a U.S. Navy helicopter can be used in lieu of one of the survey boats, so long as safety of flight is not jeopardized. U.S. Navy helicopter pilots are trained to conduct searches for relatively small objects in the water, such as a missing person. A helicopter search pattern is dictated by standard U.S. Navy protocols and accounts for multiple variables, such as size and shape of the search area, size of the object, and environmental conditions, among others.

(10) The mitigation-monitoring zone will be surveyed for 30 minutes prior to detonation and continue for 30 minutes after detonation (concentrated on the area down current of the test site), in order to monitor for marine mammals and other protected species. It is the U.S. Air Force's (on behalf of the U.S. Navy) intent to conduct five successive detonations with a maximum time of 20 minutes between detonations, although a variety of factors can cause a delay of longer than 20 minutes between detonations, although a variety of factors can cause a delay of longer than 20 minutes, including a delay until the following day. Monitoring would continue during the 20 minutes time between detonations, and would serve as both post-detonation monitoring as well as pre-mission monitoring for the next detonation. If the

time between detonations is delayed beyond 20 minutes, post-mission monitoring will be conducted for 30 minutes. At the conclusion of the final detonation, post-monitoring will be conducted for 30 minutes.

(11) Other personnel besides designated observers shall also maintain situational awareness of the presence of marine mammals within the mitigation-monitoring zone to the extent practicable given dive safety considerations.

(12) Divers placing the charges on mines will observe the immediate underwater area around the detonation site for marine mammals and other marine species such as diving birds, sea turtles, and Gulf sturgeon, and report sightings to surface observers.

(13) If a marine mammal is sighted within an established mitigation-monitoring zone or moving towards it, underwater detonation events will be postponed or suspended until the marine mammal that caused the postponement/suspension of training operations has voluntarily left the area and the area is clear of marine mammals for at least 30 minutes.

(14) If a marine mammal is detected within or about to enter an established mitigation-monitoring zone and subsequently cannot be reacquired, the mission will be postponed or suspended until the last verified location is outside the mitigation-monitoring zone, the animals is moving away from the area, and the area is clear of marine mammals for at least 30 minutes.

(15) Any marine mammal observed after an underwater detonation either injured or exhibiting signs of distress will be reported to Eglin Air Force Base. Eglin Air Force Base will coordinate with other members of marine mammal stranding networks, as appropriate, and report these events to NMFS or U.S. Fish and Wildlife Service. The report will contain date and time of sighting, location, species description, and indications of the animal's status.

(16) Training operations shall be suspended if the conditions of §217.83(a)–(d) regarding the injury, serious injury, or death of a marine mammal during NEODS training operations are met.

(17) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§217.85 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization pursuant to §216.106 of this chapter and §217.87 for activities described in §216.80(a) are required to cooperate with NMFS, and any other Federal, state, or local agency with authority to monitor the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Southeast Region, NMFS, by letter or telephone, prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in §217.80(a) is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in §217.80(b), then the Holder of the Letter of Authorization must, in addition to complying with the requirements of §217.82(a)–(d), notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8400), within 24 hours of the discovery of the injured or dead animal.

(b) Holders of Letters of Authorization must designate trained, qualified, on-site individuals approved in advance by NMFS, as specified in the Letter of Authorization, to perform the following monitoring requirements:

(1) For NEODS testing, areas to be used in missions shall be visually monitored for marine mammal presence from a surface support vessel prior to detonation of mine neutralization charges. Monitoring shall be conducted 30 minutes before missions to clear the mitigation-monitoring zone. Post-mission monitoring shall also be conducted for 30 minutes after the final detonation (concentrated on the area down current of the test site). If marine mammals are inside the mitigation-monitoring zone, detonations shall be postponed until they have left the area. The observer on the vessel